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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): **FORRESTER *et al.***

Group Art Unit: **2819**

Application No.: **10/806,763**

Examiner: **to be assigned**

Filed: **March 22, 2004**

Title: **SYSTEMS AND METHODS FOR
CONTROLLING OUTPUT POWER
IN A COMMUNICATION DEVICE**

RENEWED PETITION UNDER C.F.R. § 1.47(a)

Commissioner for Patents
Please deliver to Paul Shanoski, c/o Office of Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Mr. Shanoski:

The present Renewed Petition Under 37 C.F.R. § 1.47(a) ("Renewed Petition") is submitted in the above-referenced patent application in response to the Decision On Petition Under 37 C.F.R. §1.47(a) ("Decision") mailed September 14, 2004. Reconsideration and a favorable decision to grant the present Renewed Petition are respectfully requested.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service via First Class Mail on **November 9, 2004** in an envelope addressed to:
Commissioner for Patents, Paul Shanoski, c/o Office of Petitions, P.O. Box 1450, Alexandria, VA 22313-1450.

Shelley M. Callagy

Printed Name of Person Mailing Paper and/or Fee

Shelley M. Callagy
Signature

The present Renewed Petition is filed along with a Change of Correspondence Address and a Power of Attorney, executed by the signing inventors, Jorge Fabrega-Sanchez and Gregory Poilasne, for purposes of appointing all practitioners associated with Customer Number 32968 as attorneys/agents of record, and further for the purpose of associating the present application with Customer Number 32968 (MPEP §402). As such, applicant respectfully requests that the present Petitioner and all other practitioners associated with Customer Number 32968 now be recognized as attorney of record in the present application.

In the Decision dated September 14, 2004, the Senior Attorney identified three of the five requirements under 37 C.F.R. §1.47(a) as not being satisfied. The Decision dated September 14, 2004 does not specify that additional fees are due. Accordingly, petitioner respectfully submits that the first and second requirements under 37 C.F.R. §1.47(a) have already been met and are presently satisfied. However, the Commissioner is hereby authorized to charge any additional fees to Deposit Account No. 50-3001.

In response to the non-compliance of the third requirement under 37 C.F.R. §1.47(a), petitioner hereby identifies that the last known address of the non-signing inventor, Tim Forrester, is:

11082 Mulgrave Road, San Diego, CA 92131.

Petitioner submits that the third requirement under 37 C.F.R. §1.47(a) has now been met.

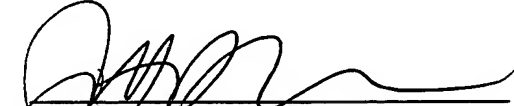
In response to the non-compliance of the fourth requirement under 37 C.F.R. §1.47(a), a Statement of Facts submitted by Shelley M. Callagy, Assistant to Intellectual Property Counsel of the applicant, Kyocera Wireless Corp., is attached hereto as Exhibit A. There, Ms. Callagy states that she sent a copy of the present application as filed along with a request to sign its respective declaration to the non-signing inventor, Tim Forrester. In addition, Ms. Callagy states that Mr. Forrester wrote her a letter refusing to join in the present application. Both Ms. Callagy's and Mr. Forrester's letters are attached to Exhibit A in support of the Statement of Facts. Ms. Callagy's statement is proof that Mr. Forrester was sent a copy of the entire application as filed. Further, Mr. Forrester's response is proof that the non-signing inventor refuses to join in the application. Petitioner submits that the fourth requirement under 37 C.F.R. §1.47(a) has now been met.

In response to the non-compliance of the fifth requirement under 37 C.F.R. §1.47(a), the previously submitted declaration executed by inventors Jorge Fabrega-Sanchez and Gregory Poilasne is now acceptable. The cited rule, 37 C.F.R. §1.63, requires that the oath or declaration identify the address of each inventor. As the last known address of joint inventor Tim Forrester is given herein, the Office can now determine that the previously submitted declaration identifies the addresses of all three joint inventors in compliance with 37 C.F.R. §1.63. Finally, applicant notes that the declaration signed by inventors Jorge Fabrega-Sanchez and Gregory Poilasne includes the signature block of the nonsigning inventor, Timothy Forrester, left blank, and that, therefore, the declaration should be treated as having been signed by all the available inventors on behalf of the nonsigning inventor pursuant to MPEP 209.03(a). Accordingly, petitioner respectfully

submits that all five requirements under 37 C.F.R. §1.47(a) have now been met. A favorable decision to grant the present Renewed Petition is respectfully requested.

Respectfully Submitted,

Dated: November 9, 2004


Jonathan T. Velasco, Esq.
Reg. No. 42,200

Jonathan T. Velasco, Esq.
KYOCERA WIRELESS CORP.
Attn: Intellectual Property Department
P.O. Box 928289
San Diego, CA 92192-8289
Tel: (858) 882-3501
Fax: (858) 882-2485



THE UNITED STATES PATENT AND TRADEMARK OFFICE

<p>Applicant(s): FORRESTER <i>et al.</i></p> <p>Application No.: 10/806,763</p> <p>Filed: March 22, 2004</p> <p>Title: SYSTEMS AND METHODS FOR CONTROLLING OUTPUT POWER IN A COMMUNICATION DEVICE</p>	<p>Group Art Unit: 2819</p> <p>Examiner: to be assigned</p>
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**STATEMENT OF FACTS IN SUPPORT OF
RENEWED PETITION UNDER C.F.R. § 1.47(a)**

Commissioner for Patents
Please deliver to Paul Shanoski, c/o Office of Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Mr. Shanoski:


In support of the Renewed Petition Under 37 C.F.R. § 1.47(a) submitted in the above-referenced patent application Shelley M. Callagy, hereby submits the following statement of facts:

1. I, Shelley M. Callagy, am an Assistant to Intellectual Property Counsel of the applicant, Kyocera Wireless Corp., in the present application.
2. On July 21, 2004, I sent joint inventor Tim Forrester a copy of the present application (specification and drawings) as filed, the applicable declaration, and a request to sign the declaration.
3. On July 23, 2004, Mr. Forrester wrote back indicating a refusal to sign the declaration.

In support of the above statements, please find attached a copy of my letter (without the enclosures) and Mr. Forrester's response.

Respectfully Submitted,

Dated: November 9, 2004


Shelley M. Callagy
Assistant to IP Counsel

Shelley M. Callagy, Assistant to IP Counsel
KYOCERA WIRELESS CORP.
Attn: Intellectual Property Department
P.O. Box 928289
San Diego, CA 92192-8289
Tel: (858) 882-2893
Fax: (858) 882-2485



 **COPY**

KYOCERA WIRELESS CORP.
10300 CAMPUS POINT DRIVE
SAN DIEGO, CALIFORNIA 92121

Shelley M. Callagy

Direct Dial: (858) 882-2893

Facsimile: (858) 882-2485

E-mail: scallagy@kyocera-wireless.com

July 21, 2004



VIA PRIORITY MAIL

Tim Forrester
11082 Mulgrave Road
San Diego, CA 92131

RE: United States Application No.: 10/806,763
Title: SYSTEMS AND METHODS FOR CONTROLLING OUTPUT
POWER IN A COMMUNICATION DEVICE
Inventor(s): Forrester et al.
Filed: March 22, 2004
Our Ref.: UP1 00116 US

Dear Tim:

Enclosed is a Declaration that requires your signature for filing in connection with the Response to File Missing Parts due in connection with the above-captioned application. We have also enclosed a copy of the application as filed for your review and records.

Assuming all information is accurate, please sign and date the document where indicated and return it to us by July 30, 2004 in the self-addressed stamped envelope provided within in order to ensure that we meet the deadline for filing the response in a timely manner.

Should there be any correction necessary on the document, please contact me at (858) 882-2893 as soon as possible so I may make the appropriate revisions and have a new version of the document mailed to you.



Tim Forrester

July 21, 2004

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We appreciate your cooperation and look forward to receiving the executed Declaration from you on or before July 30, 2004.

Yours truly,

A handwritten signature in cursive script, which appears to read "Shelley M. Callagy".

Shelley M. Callagy
Assistant to Intellectual Property Counsel

Enclosures



11082 Mulgrave Road
San Diego
CA 92131
July 23rd 2004

Attn: Shelley Callagy

Re: Application Number 10/806/763

 **COPY**

Dear Shelly,

Please find attached the paperwork you recently sent me. You will notice that I have not signed as requested, please let me explain why.

1. There is the question of the unpaid invoice I submitted (dated March 2nd 2004).
2. Several other patents have been issued in my name since I left KWC and I am yet to receive any financial benefit from KWC for these patents.
3. To adequately check this enclosed patent consumes significant time and effort – something I'm not prepared to do if KWC continues its policy of not compensating me.
4. Finally, I am the sole inventor of the above named patent.

As you maybe aware, I have approximately 16 sole and 8 joint KWC patents filed or approved, a number of which are likely to be of great value to KWC.

Therefore, it is in both our best interests if we can come to a financial agreement covering the effort required to complete the patent process.

Clearly my services are likely to be significantly less expensive than that of a patent attorney, further I have detailed knowledge of the subject matter.

Thus I suggest a very modest flat rate of \$1000 per patent. This payment would cover all work involved with office actions and routine paperwork etc. No further payments would be necessary for any patents issued as a result of my assistance.

This means your total liability would be in the region of \$24,000 maximum.

I welcome your comments on the above proposal and look forward to working with you.

Yours truly



Tim Forrester

NOV 12 2004
U.S. PATENT AND TRADEMARK OFFICE

COPY

PTO/SB/01 (08-03)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)		Attorney Docket Number	UP1 00116
		First Named Inventor	FORRESTER, Tim
		/COMPLETE IF KNOWN	
		Application Number	10/806,763
		Filing Date	March 22, 2004
<input type="checkbox"/> Declaration Submitted With Initial Filing OR <input checked="" type="checkbox"/> Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)		Art Unit	2819
		Examiner Name	to be assigned

I hereby declare that:

Each inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

SYSTEMS AND METHODS FOR CONTROLLING OUTPUT POWER IN A COMMUNICATION DEVICE

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY) March 22, 2004 as United States Application Number or PCT International

Application Number 10/806,763 and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				Yes	No
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

[Page 1 of 2]

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

DECLARATION — Utility or Design Patent Application

Direct all correspondence to: ☒ Customer Number: 32968 OR ☐ Correspondence address below

Name

Address

City

State

ZIP

Country

Telephone

Fax

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR:

☒ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])

Family Name or Surname

Tim

FORRESTER

Inventor's
Signature

Date

Residence: City
San Diego

State
CA

Country
USA

Citizenship
UNITED KINGDOM

Mailing Address

11082 Mulgrave Road

City
San Diego

State
CA

ZIP
92131

Country
USA

NAME OF SECOND INVENTOR:

☐ A petition has been filed for this unsigned inventor

Given Name (first and middle [if any])

Family Name or Surname

Jorge

FABREGA-SANCHEZ

Inventor's
Signature

Date

8/6/04

Residence: City
San Diego

State
CA

Country
USA

Citizenship
SPAIN

Mailing Address

4092 Crown Point Drive #2

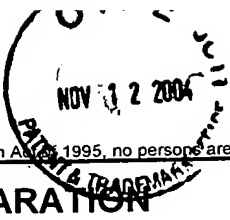
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San Diego

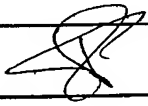
State
CA

ZIP
92109

Country
USA

☒ Additional inventors or a legal representative are being named on the 1 supplemental sheet(s) PTO/SB/02A or 02LR attached hereto.

**DECLARATION****ADDITIONAL INVENTOR(S)**
Supplemental SheetPage 1 of 1

Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any))		Family Name or Surname	
Gregory		POILASNE	
Inventor's Signature 		Date <u>08/06/04</u>	
San Diego Residence: City	CA State	USA Country	FRANCE Citizenship
1331 Granada Avenue Mailing Address			
Mailing Address			
San Diego City	CA State	92102 Zip	USA Country
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any))		Family Name or Surname	
Inventor's Signature		Date	
Residence: City	State	Country	Citizenship
Mailing Address			
Mailing Address			
City	State	Zip	Country
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any))		Family Name or Surname	
Inventor's Signature		Date	
Residence: City	State	Country	Citizenship
Mailing Address			
Mailing Address			
City	State	Zip	Country

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.